

2413 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0703
(202) 225-3661

59 ELM STREET
SECOND FLOOR
NEW HAVEN, CT 06510
(203) 562-3718

DURHAM/MIDDLEFIELD/MIDDLETOWN
(860) 344-1159

WEBSITE: [HTTP://DELAURO.HOUSE.GOV](http://DELAURO.HOUSE.GOV)



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COMMITTEE ON THE BUDGET

November 21, 2019

The Honorable George Ervin "Sonny" Perdue III
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Perdue:

I write to express deep concern regarding the Department of Agriculture's (USDA) continued and substantial payments to U.S. subsidiaries of the Brazilian-owned and controlled meatpacker JBS S.A. Based on well-supported and documented facts, JBS S.A. invested in U.S. subsidiaries as a result of numerous criminal violations that call into question the justification for their continuation as USDA contractors. Therefore, I urge you to begin a departmental investigation to bring suspension and debarment proceedings against the JBS entities, including but not limited to Pilgrim's Pride Corp.

The Federal Acquisition Regulation and related USDA policies outline requirements for the federal procurement process, including a requirement for "maintaining the public's trust and fulfilling public policy objectives."¹ To that end, federal agencies have broad authority to suspend and/or debar a government contractor based on causes that affect the "present responsibility" of the contractor.² In recent months, several profound revelations support a finding that JBS S.A., as well as the companies of its subsidiary JBS USA, fails to meet the requirement of "present responsibility."

Much of the relevant corrupt and illegal behavior by JBS S.A. is related to the company's entry to and consolidation of the United States meatpacking sector. Under a plea agreement with Brazilian prosecutors, Wesley and Joesley Batista, the leading JBS S.A. shareholders, admitted to numerous criminal acts consisting of the bribery of thousands of Brazilian government officials over a period of decades, including three consecutive Presidents of Brazil.

Through this criminal activity, JBS S.A. obtained multiple loans from Brazil's National Bank for Economic and Social Development (BNDES). These illicit BNDES funds were then used by JBS S.A. to purchase some or all of the U.S. companies JBS now controls. This criminal conduct is not a matter of allegation, conjecture, or supposition. Rather, it is based upon depositions of the Batista brothers as well as detailed findings by Brazilian courts and prosecutors. The Batista's holding company, J&F Investimentos S.A., agreed to a fine of over \$3 billion U.S. dollars to

¹ 48 C.F.R. § 1.102(a), 48 C.F.R. § 9.406-2, and 48 C.F.R. § 9.407-2.

² *Id.* §§ 9.406-2(c), 9.407-2(c).

avoid the incarceration of the Batista brothers. In addition, certain participants in the scheme who worked for the Brazilian government have been prosecuted.

In the United States, it has been widely reported that J&F Investimentos S.A. is under investigation by the Department of Justice (DOJ) and the Securities Exchange Commission for potential violations of the Foreign Corrupt Practices Act. Recent reports indicate that the DOJ may be currently concluding a negotiation with J&F Investimentos S.A. to address these violations. However, any potential settlement cannot and should not be allowed to impact a suspension and debarment investigation.

Moreover, JBS and its subsidiaries have continually engaged in a litany of practices leading to violations of labor, environmental, and food safety laws. According to a recent investigation by the Washington Post, federal data from 2015 to 2018 show "that JBS has the highest rate of serious worker injuries—including those involving amputation and hospitalization—among meat companies in the United States, and the second highest rate of serious injuries among all companies in the United States."³ This record of violations indicates JBS is the company leading the pace of workplace violations, even beyond its market share. Similarly, a review of public data reveals JBS facilities account for a disproportionate share of environmental enforcement actions and food recalls.

Within the last year, there has been rightful public outrage surrounding government payments to JBS, especially given that the company received tens of millions of dollars through USDA's so-called "Trade Aid," which had initially been characterized as assistance for struggling farmers and ranchers. Indeed, according to your Department's disclosures to the Committee on Appropriations, JBS was awarded government contracts worth a total of \$90,075,263 in 2018.⁴ In addition to this sum, JBS regularly receives additional USDA procurement awards worth millions of dollars on an annual basis.

Taxpayer dollars should never be used to subsidize corrupt, foreign-owned corporations who are engaged in illegal behavior. As a matter of public faith in the federal government, I urge you to immediately direct the Department's Inspector General to conduct the necessary investigation and present findings to the agency's suspension and debarment authority.

Sincerely,


ROSA L. DeLAURO
Member of Congress

³ See https://www.washingtonpost.com/politics/this-foreign-meat-company-got-us-tax-money-now-it-wants-to-conquer-america/2019/11/04/854836ae-eae5-11e9-9306-47cb0324fd44_story.html

⁴ U.S. Department of Agriculture. (2019). *USDA Report to House and Senate Committees on Appropriations and Agriculture*.

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cc: The Honorable Phyllis K. Fong, Inspector General, Department of Agriculture
The Honorable Stephen A. Vaden, General Counsel, Department of Agriculture